

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

LEAH OBIAL-GATES,	:	APPEAL NO. C-080454
	:	TRIAL NO. SP-0800155
Petitioner-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
STATE OF OHIO,	:	
	:	
Respondent-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

On June 20, 1999, petitioner-appellee Leah Obial-Gates pleaded guilty under information in a plea bargain to three counts of corruption of a minor. She was sentenced and designated a sexually-oriented offender. Under former R.C. Chapter 2950, she was required to annually register as a sexual offender for ten years.

In December 2007, Obial-Gates received a notice from the Ohio Attorney General stating that she had been reclassified under Am.Sub.S.B. No. 10 (“Senate Bill 10”) as a Tier II sex offender and that she was required to register with the local sheriff every 180 days for 25 years. Obial-Gates filed an R.C. 2950.031(E) petition to contest her reclassification, challenging the constitutionality of Senate Bill 10. After a hearing, the trial court granted the petition, ruling that the reclassification of Obial-Gates under

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Senate Bill 10 constituted a breach of contract and a violation of her rights under the Contract Clause of the Ohio and United States Constitutions.

The state's sole assignment of error alleges that the trial court erred in ruling that the retroactive application of Senate Bill 10's tier-classification and registration requirements violated the Contract Clause of the Ohio and United States Constitutions because it impaired Obial-Gates's contract with the state of Ohio that, under her plea agreement, she would be obligated to register as a sex offender for only ten years. The application of Senate Bill 10's registration requirements, the state argues, did not constitute a breach of Obial-Gates's plea agreement or an impairment of her constitutional right to contract.

Plea agreements are contracts between the state and criminal defendants.<sup>2</sup> Principles of contract law are applicable to the interpretation and enforcement of plea agreements.<sup>3</sup>

The record shows that on August 2, 1999, Obial-Gates appeared before the trial court for sentencing and for a sexual-offender classification hearing under former R.C. Chapter 2950. The state requested that Obial-Gates be classified as a sexually-oriented offender, the lowest classification available under the former law. The trial court stated, "I was looking at this, and I really don't think she falls into it as a sexual predator, but clearly a sexually-oriented offender." The court then found that Obial-Gates was a sexually-oriented offender.

On May 2, 2008, the trial court held a hearing on Obial-Gates's petition to contest her reclassification as a Tier II sex offender. The court stated that it

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<sup>2</sup> See *State v. Netherland*, 4th Dist. No. 08CA3043, 2008-Ohio-7007, citing *State v. Adkins*, 161 Ohio App.3d 114, 2005-Ohio-2577, 829 N.E.2d 729.

<sup>3</sup> See *State v. Bethel*, 110 Ohio St.3d 416, 2006-Ohio-4853, 854 N.E.2d 150; *State v. Vega*, 1st Dist. No. C-020486, 2003-Ohio-1548.

remembered the case “perfectly” and that “part of the deal was that [Obial-Gates] \* \* \* would be found to be a sexually-oriented offender.” The court said, “My notes indicate that was agreed to.” The prosecutor stated that his “notes” showed that “it was actually a hearing, a sexual predator hearing submitted on the evidence.” The court stated that the former law had required a sexual-offender classification hearing, but that it had been “agreed” that the prosecutor would “go along with” Obial-Gates’s classification as a sexually-oriented offender.

Obial-Gates had been classified under former R.C. Chapter 2950 as a sexually-oriented offender. There is no evidence in the record as to what was discussed concerning Obial-Gates’s plea negotiations and agreement. The trial court’s memory about the circumstances surrounding Obial-Gates’s plea was simply not evidence. None of the “notes” that were discussed at the hearing were submitted into evidence. Neither Obial-Gates nor her attorney testified that her duty to register for ten years was a principal part of her plea agreement. For a court to enforce a contract, the record must contain some evidence of the terms of the contract. There is no evidence in the record to show that a ten-year registration requirement was a term of Obial-Gates’s plea agreement. The record before this court does not demonstrate that the retroactive application of Senate Bill 10’s tier-classification and registration requirements impaired any contract between Obial-Gates and the state. The assignment of error is sustained.

Therefore, the judgment of the trial court is reversed. The cause is remanded with instructions to the trial court to enter an order that Obial-Gates is subject to Senate Bill 10’s tier-classification and registration requirements as a Tier II sex offender.

Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HENDON, P.J., HILDEBRANDT and SUNDERMANN, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on September 14, 2009  
per order of the Court \_\_\_\_\_.  
Presiding Judge